

Before the
Federal Communication Commission
Washington, D. C. 20554

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In the Matter of
Amendment of Section
73.202 (B)
Table of Allotments
FM Broadcast Stations
(Donalsonville, Georgia)

RM-8270

MM Docket Number: 93-205

To: Chief, Allocations Branch

REPLY COMMENTS

Jerry E. White and Donald F. White, D/B/A Seminole-Decatur Radio Company (**SEMINOLE**) respectfully files these reply comments in the matter of RM-8270.

Clyde and Connie Scott, D/B/A EME Communications (**EME**) filed opposition to the petition for rule making of Seminole to allotment channel 298A to Donalsonville, Georgia.

EME's opposition was based on three reasons:

- [1] The failure of Seminole to comply with section 1.52 of the Commission's rules.
- [2] EME's claim that the channel will not work technically.
- [3] EME's claim of lack of candor by Jerry E. White

The Commission in it's Notice of Proposed Rule Making, released July 19, 1993, placed Seminole on notice that it must comply with section 1.52 of Commission's rules. The Commission requested Seminole "Rectify this omission in it's comments". Attached as Exhibit A is a copy of comments filed by Seminole in which this matter was rectified. This makes EME's argument a moot point.

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EME states that the Donalsonville proposal is short spaced to the Sasser allocation. However, in it's Notice of Proposed Rule Making the Commission says "Channel 298A can be allotted to Donalsonville in compliance with the minimum distance separation requirements of the Commission's rules with a site restriction of 6.3 kilometers south of the community".

EME states that the allotment of 298A to Donalsonville would provide a third local service. In the past the Commission has accepted co-owned AM & FM stations being counted as one service. If this is still the case then the proposal would offer Donalsonville it's second local service.

EME's only valid argument in this matter is that land for a site may not be available within the new useable area of Channel 299C3. However, EME fails to offer any proof, whatsoever, that it's statement "no single owner was willing to either lease or sell suitable land within the area for a radio tower" is the truth!

EME states that Jerry E. White lacks candor, saying "In view of White's record before the Commission, his expression of interest in the Donalsonville allotment may not be credited".¹ However, in support of such statement, EME offer only a part of White's record before the Commission. This selective memory on the part of EME is designed to give one the impression that White has a long history of making proposals then not filing for the construction permit. EME is aware, however, that White was a part to a rule making petition to assign Channel 292A to Boston, Georgia (MM Docket 84-720, Report and Order June 5, 1985). White was also a party to an application for the channel (850715MF & 860109MK). White has been a party to one AM construction permit, one FM construction permit, and two LPTV construction permits. All but one of these resulted in stations going on the air. The only unconstructed one is a currently outstanding construction permit for W02CE, Camilla, Georgia. (Exhibit "B" is a list of construction permits that White has been a party to).

Donald F. White has been a party to one AM and three LPTV construction permits. All but one, the heretofore mentioned, currently outstanding W02CE, Camilla, Georgia, have been built.

¹Should the Commission concur with EME that White's statement in the current procedure cannot be taken at face value, White is prepared to provide proof of it's interest in an FM station in Seminole County. Prior to filing it's petition, Seminole conducted talks with the owners of WUMG (FM), Chattahoochi, Florida, (transmitter located in Seminole County) about the purchase of their station.

The Whites would hope that their record before the Commission is taken into account.

Mr. John S. Neely, attorney for EME states "White has not given the Commission any reason for not complying with his representation". The reason, Mr. Neely, is simple, THEY DIDN'T ASK!

While Jerry E. White is not sure an explanation is needed in the current proceeding, one will be offered.

EME attaches a copy of the relevant statement from the Smithville proceeding (MM Docket 90-325). However, fails to quote the full statement. "Petitioners plan, upon allotment, of a Class A FM channel to Smithville, Georgia, to file an application ...". As of August 21, 1990, that statement was true and correct to the best of Jerry White's knowledge and belief. In the business world plans can change. If Clyde Scott and John Neely never have to change their business plans I would suggest they quit their jobs and invest in stocks for a living because they obviously have a better handle on business than most of us.

The change from a C3 to Class A channel at Smithville made White's proposed site useless.² In October, 1990, White became a partner in a local cable TV channel in Moultrie, Georgia. By January, 1991, White's partner had all but pulled out leaving White as General Manager of a cable station, that by then, had six employees. White left the acquisition of a site up to a contracted third party. As the window approached, White was forced to drop his bid for the FM channel because a suitable site was not found. White's failure in the matter had more to do with a business man with too many "irons in the fire" and nothing to do with White's "lack of candor".

Clyde Scott fails to state that EME was Smithville Radio Company's engineering service for the Smithville proceedings and the gripe filed by EME has more to do with getting even with White than it has concern for the public interest. EME was disappointed about a lost job when White failed to file for Smithville. This point alone makes EME's opposition border on a sham presentation meant only to discredit Jerry E. White.

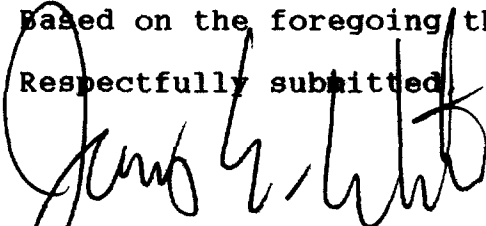
In conclusion Seminole believes that the only valid point that EME has in it's opposition is the reduction in the useable area afforded 299C3 in Sasser if 298A is allotted to Donalsonville. However, EME offers no proof that a site is unobtainable in the useable area, or acceptable short space area, that may be allowed

²EME states, incorrectly, that Channel 254A was allotted to Smithville. 254C3 was proposed by White. However, the Commission allotted Channel 295A with a substantially different usable area from the original request.

by the Commission. Also, EME engages in a completely undeserved personal attack on Jerry E. White based on half-truths and selective memory. EME has failed to present all it knew in the Smithville proceeding in a deliberate attempt to mislead the Commission.

Based on the foregoing the opposition of EME should be denied.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "Jerry E. White".

Jerry E. White
Seminole-Decatur Radio Company
Route 3, Box 514
Pelham, Georgia 31779
September 15, 1993

SEMINOLE-DECATUR RADIO COMPANY

September 15, 1993

Exhibit "A"

Seminole-Decatur Radio Company's Comments in the Matter of:

MM Docket Number 93-205

Before the
Federal Communication Commission
Washington, D. C. 20554

In the Matter of
Amendment of Section
73.202 (B)
Table of Allotments
FM Broadcast Stations
(Donalsonville, Georgia)

RM-8270
MM Docket Number: 93-205

COPY

To: Chief, Allocations Branch

COMMENTS ON NOTICE OF PROPOSED RULEMAKING

Seminole-Decatur Radio Company, respectfully files the following comments in the above mentioned matter.

Seminole-Decatur Radio Company believes that the public interest would best be served by the allotment of Channel 298A to Donalsonville, Georgia, as it's second local FM service. Seminole-Decatur Radio Company has every intention of applying for the channel if it is allotted. If authorized, Seminole-Decatur Radio Company will build it's station promptly.

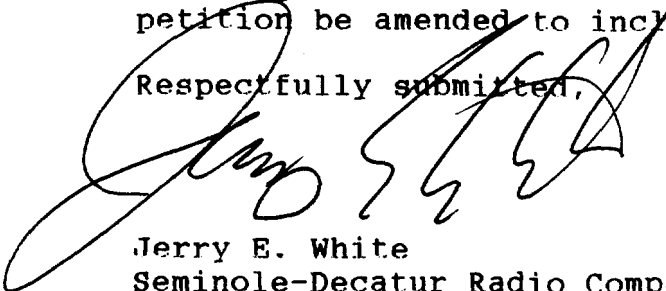
Seminole-Decatur Radio Company notes the Commission's footnote in it's Notice of Proposed Rulemaking dealing with our omission of verification that is required by Section 1.52 of the Commission's rules. Attached to these comments as Exhibit "A" is an affidavit signed by Jerry E. White of Seminole-Decatur Radio Company. This affidavit verifies that the statements contained in our Petition

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Re: RM-8270/MM Docket No. 93-205

for Rulemaking are true, correct, and accurate, to the best of his knowledge. Seminole-Decatur Radio Company requests that our petition be amended to include this affidavit.

Respectfully submitted,



Jerry E. White
Seminole-Decatur Radio Company
Route 3, Box 514
Pelham, Georgia 31779
September 7, 1993

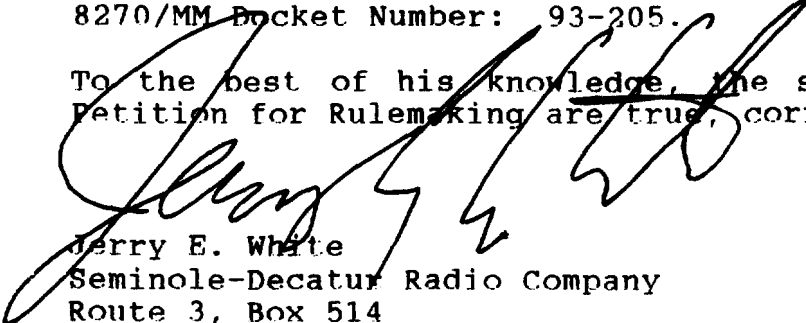
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EXHIBIT "A"

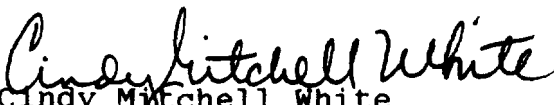
Jerry E. White deposes and says:

That he has reviewed the Petition for Rulemaking related to RM-8270/MM Docket Number: 93-205.

To the best of his knowledge, the statements contained in the Petition for Rulemaking are true, correct, and accurate.



Jerry E. White
Seminole-Decatur Radio Company
Route 3, Box 514
Pelham, Georgia 31779
September 7, 1993


Cindy Mitchell White
Notary Public
My Commission Expires May 25, 1993

COPY

AFFIDAVIT

STATE OF GEORGIA

MITCHELL COUNTY

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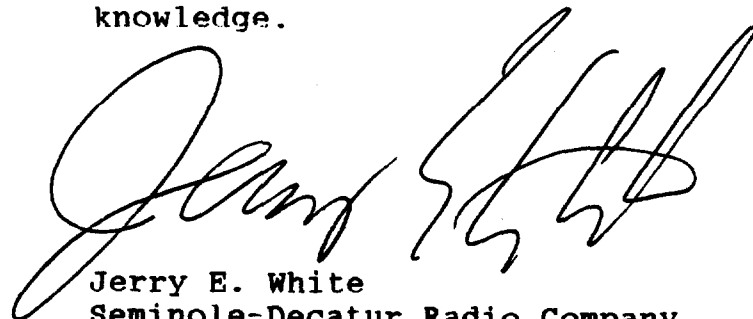
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SS:

Jerry E. White, being first duly sworn, deposes and states that:

He has prepared and reviewed the attached comments to be filed with the Federal Communication Commission and believes the statements contained to be true, correct, and accurate to the best of his knowledge.



Jerry E. White
Seminole-Decatur Radio Company
Route 3, Box 514
Pelham, Georgia 31779
September 7, 1993



Cindy Mitchell White
Notary Public
My Commission Expires May 25, 1995

COPY

SEMINOLE-DECATUR RADIO COMPANY
September 15, 1993
Exhibit "B"

"White's Record Before the Commission...."

Jerry E. White has been a party to the following construction permits:

BP-830607AB WCLB (AM) January 12, 1984
Construction Completed

BPH-860109MK WTUF (FM) August 25, 1987
Construction Completed

BPTVL-JB0702PW W02BS March 7, 1988
Construction Completed

BPTVL-920213CG W02CE July 23, 1992
Currently Outstanding Construction Permit

Jerry E. White has been a party to two rule making petitions in which the filing window has past; MM Docket 90-325 is the only one in which White was not a party to an application filed.

Donald F. White has been a party to the following construction permits:

BP-830607AB WCLB (AM) January 12, 1984
Construction Completed

BPTVL-JB0702PW W02BS March 7, 1988
Construction Completed

BPTTL-890310TT W20AT August 21, 1989
Construction Completed

BPTVL-920213CG W02CE July 23, 1992
Currently Outstanding Construction Permit

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STATE OF GEORGIA

MITCHELL COUNTY

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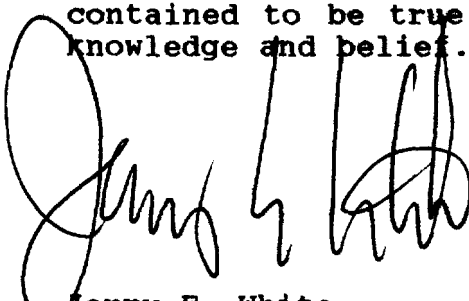
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He has prepared and reviewed the attached comments to be filed with the Federal Communication Commission and believes the statements contained to be true, correct, and accurate to the best of his knowledge and belief.


Jerry E. White
Seminole-Decatur Radio Company
Route 3, Box 514
Pelham, Georgia 31779
September 15, 1993


Cindy Mitchell White
Notary Public
My Commission Expires May 25, 1995

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of September, 1993,
a copy of the foregoing document was placed in the United States
Mail, First Class - Postage Prepaid.

Addressed to the following:

Mr. John S. Neely
Miller & Miller, P. C.
Attorney for EME Communications
P. O. Box 33003
Washington, D. C. 20033



Jerry E. White
Seminole-Decatur Radio Company